



**CITY OF NEWPORT BEACH**

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Commission's Secretary  
Office of the Secretary  
Federal Communications Commission  
445 12th St., S.W.  
Washington, D.C. 20554

**RE: COMMENT ON STREAMLINING DEPLOYMENT OF SMALL CELL  
INFRASTRUCTURE BY IMPROVING WIRELESS FACILITIES SITING  
POLICIES;**

**WT Docket No. 16-421**

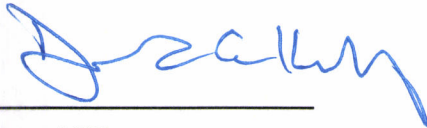
Dear Commission's Secretary:

Thank you for allowing the City of Newport Beach ("City") the opportunity to submit comments regarding the Petition for Declaratory Ruling filed by Mobilitie, LLC, on November 15, 2016 ("Mobilitie Petition").

We oppose the Mobilitie Petition and its proposed interpretation on the allowable charges for City owned property. The Mobilitie Petition is incorrectly attempting to categorize charges for use of City owned property under 47 U.S.C. Section 253(c) when the charges are actually fair market value rent collected under the City's proprietary capacity as landlord. Furthermore, regulatory provisions in 47 U.S.C. Section 332(c)(7)(B) do not apply to the City's property rights as a landowner and do not preempt a governmental body's ability to lease its property. The preservation of local government authority in its proprietary actions is recognized in 47 U.S.C. Section 332(c)(7)(A). Lastly, construing 47 U.S.C. Section 1455(a) to require local governments to grant third-parties access to their property without compensation gives rise to a taking within the meaning of the Fifth Amendment.

For all of the reasons stated above, the City formally opposes the Mobilitie Petition and urges the Federal Communications Commission's rejection of the same.

Sincerely,



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Dave Kiff  
City Manager

Enclosure: Copy of this letter filing